THE HON'BLE MR JUSTICE S.ANANDA REDDY

Writ Petition No.18035 of 2005

17-08-2005

Between:

A.N.Rao

... PETITONER

AND

1.APSRTC, rep. By its Regional Manager, Visakhapatnam Region at Visakhapatnam and another.

.....RESPONDENTS

THE HON'BLE MR JUSTICE S.ANANDA REDDY

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Writ Petition No.18035 of 2005

ORDER:

This writ petition is filed aggrieved by the proceedings of the second respondent dated 19.02.1994 in imposing the punishment of withholding annual increment for a period of one year with cumulative effect as confirmed by the first respondent vide order dated 31.07.1995.

The grievance of the petitioner is that withholding of annual increment with cumulative effect is a major penalty but, however, imposed such penalty without conducting any enquiry. Therefore, the impugned proceedings are liable to be quashed.

At the time of hearing, learned counsel for the petitioner produced circular No.LO.1/99 dated 19.02.1999 issued by the Vice Chairman and Managing Director referring to Regulation 8 of APSRTC Employees (CC&A) Regulations and the penalties that may be imposed upon an employee by the disciplinary authority and also referring to the judgment of the Supreme Court in **KULWANTH SINGH GILL V. STATE OF PUNJAB**, wherein it was held that imposing punishment with cumulative effect would amount to a major penalty and the same cannot be imposed unless an enquiry is conducted and, therefore, instructed all disciplinary authorities not to impose the punishment of withholding the increment with cumulative effect until an enquiry as contemplated under CC&A Regulations is conducted.

Therefore, in the light of the judgment of the Supreme Court and circular instructions, the punishment imposed by the second respondent confirmed by the first respondent is illegal and

unsustainable.

Heard the learned counsel for the petitioner and the learned Standing Counsel appearing for respondents.

Admittedly, the second respondent imposed the punishment of withholding of one annual increment with cumulative effect. It is also not disputed that the said punishment was imposed without conducting any regular enquiry. In the light of the circular instructions and also the judgment referred supra, such imposition of major penalty is illegal and unsustainable as it was not preceded by regular departmental enquiry.

Accordingly, the impugned proceedings dated 19.02.1994 are modified from the major penalty to minor penalty. Accordingly, the punishment of withholding annual increment is modified to without cumulative effect. However, the monetary benefit as a result of this order shall be available to the petitioner only from the date of this order.

The writ petition is accordingly disposed of. No costs.

17.08.2005

VGB